HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition no. 1732 (S/S) 2005

Soban Singh Bisht S/o Sri Kirti Singh,
R/o Village – Dhumakot, P.O.-
Dhumakot, District Pauri Garhwal ----Petitioner.

Vs.

1. State of Uttaranchal, through
   Principal secretary, Education,
   Secretariat at Dehradun.
2. The Director of Education (Basic),
   Uttaranchal at Dehradun.
3. The District Education Officer, Pauri Garhwal
4. The Principal , Junior High School, Doliyakhal,
   Nainidanda, Pauri Garhwal ----Respondents.

Sri Subhash Upadhyay, learned counsel for the petitioner.
Learned Standing Counsel for the respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Subhash Upadhyay, learned counsel for the petitioner and learned Standing Counsel for the respondents.

The petitioner by means of this writ petition, has challenged the order dated 30.08.2005 passed by the Director School Education, Uttaranchal by which he has cancelled the transfer order dated 30.06.2005 so far the petitioner is concerned.

Brief facts of the case are that the petitioner was working as Assistant Teacher in Junior High School, Patoria, Block Nainidanda, district Pauri Garhwal. On 09.08.2004, the District Basic Education Officer, Pauri Garhwal, passed order whereby he transferred the petitioner from Junior High School, Patoria-Block Nainidanda to Teela-Block Thalisain, district Pauri Garhwal.

Against the said transfer order, the wife of the petitioner who is also teacher, has moved a representation on 09.10.2004 raising her grievances. The District Basic Education Officer on 13.10.2004 rejected the representation of petitioner's wife

stating therein that it is not possible to stay the transfer order as the same was passed on the dictate of Hon'ble Minister. Consequently the petitioner joined at Junior High School, Teela, Block Thalisain, district Pauri Garhwal.

Before annual transfers are made, wife of the petitioner again represented by making an application to Director, Education stating therein that she is also a teacher and a Govt. Order is there that as far as possible, husband & wife may be accommodated at one place, and further she has got a minor child and in case, her request is not accepted, she will have to face lot of difficulties, as nobody is there to look after the minor child. On this application, the Director of Education made an endorsement direction the District Education Officer to take decision through the Committee, empowered for making policies of transfers.

The Committee, after considering the case of the petitioner transferred him from Junior High School, Teela, Block Thalisain to Junior High School, Doliyakhal, Block, Nainidanda on 30.06.2005 and in pursuance of this order, the petitioner has joined at Doliyakhal, Block, Nainidanda.

Again on 30.08.2005, another order was passed by the Director School Education, Uttaranchal which was received by the petitioner on 10.11.2005. By this order the Director of School Education has cancelled earlier order dated 30.06.2005 by which the petitioner was transferred to Junior High School Doliyakhal, Vikas Khand- Nainidanda and had joined there.

The petitioner has attacked the impugned order on various grounds. Firstly, that from perusal of the orders passed by the respondents it transpires that the Transferring Authority did not pass the order, by applying his mind but the same has been passed on the dictate of Political Masters. Secondly, that in pursuance of the Transfer order dated 30.06.2005 he had joined

at Junior High School Doliyakhal, and by canceling that transfer order on 30.08.2005 which was received to him on 10.11.2005 itself, he has been put to in great difficulties in the mid session. Thirdly, that there is a Got order to the effect that as far as possible, the husband and the wife may be placed at one place and if it is not possible they may be placed in nearby school.

In the Counter affidavit, it is stated by the respondent that the transfer of petitioner to Teela, Block Thalisain was made on administrative ground and petitioner could not have been transferred to Doliyakhal, Vikas Khand – Nainidanda within six months, as the earlier transfer was on administrative ground.

Considering all these fact and circumstances, it appears just and proper to direct the respondents not to implement the order dated 30.08.2005 till the Education session 2005-2006 is over and the petitioner may be permitted to continue at Junior High School, Doliyakhal, Vikas Khand- Nainidanda.

Consequently, I direct the respondents not to implement the order dated 30.08.2005 till 31.05.2006 and petitioner may be permitted to conti8nue at Junior High School Doliyakhal, Vikas Khand- Nainidanda till 31.05.2006. The petitioner too is directed to join at new place of posting at Teela, Block Thalisain in the first week of June, 2006 or at any other place where the respondents direct him to take charge by passing fresh order, if they choose so.

With these directions, the writ petition is finally disposed of.

(M.M. Ghildiyal, J.)

December 5, 2005
NCM: